Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)
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National Exchange Carrier Association, Inc.	)
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Petition to Amend Section 69.104 of the Commission's Rules	)
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PETITION FOR RULEMAKING

The National Exchange Carrier Association, Inc. (NECA) hereby files this petition for rulemaking pursuant to section 1.401 of the Commission's Rules.[1] NECA requests that the Commission amend section 69.104 of its rules[2] so as to permit the application of no more than five End User Common Line (EUCL) charges (also commonly referred to as "Subscriber Line Charges" or "SLCs") to customer-ordered exchange access service that is provisioned using digital, high capacity T-1 interfaces (*i.e.*, 1.544 Mbps digital circuit interfaces) for which the customer supplies the terminating channelization equipment.[3]

As discussed herein, application of no more than five SLCs to these circuits more closely reflects the actual common line costs incurred by NECA pool participants in

[1] 47 C.F.R. § 1.401.

[2] 47 C.F.R. § 69.104 (End user common line charges for non-price cap incumbent local exchange carriers).

[3] This exchange access service is often sold under the name Digital Transport Service (DTS). Exchange access service that is provisioned using a T-1 interface where the local exchange carrier (LEC), and not the customer, provides the terminating channelization equipment would continue to be assessed one SLC per derived channel in accordance with current rules.

providing such circuits, and is consistent with the treatment of functionally similar Primary Rate Interface (PRI) Integrated Services Digital Network (ISDN) services.

I. BACKGROUND

Section 69.104 of the Commission's Rules requires Incumbent Local Exchange Carriers (ILECs) to assess SLCs "upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges."[4] Such charges "shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions."[5]

For residential and single line business customers, most subscriber lines support only a single voice-grade channel and are assessed one SLC per physical line. Large business customers, however, are more likely to choose other options for the provision of local exchange service. One option is ISDN services[6] for which the Commission has recently modified its rules for SLC application for rate-of-return carriers.[7] Another option is digital, high-capacity T-1 service, in which case the local exchange carrier

[4] 47 C.F.R. 69.104(a).

[5] *Id.*

[6] PRI ISDN allows subscribers to obtain 23 voice-grade channels and one data channel over a T-1 facility.

[7] *See* Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket No. 00-256, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, CC Docket No. 98-77, Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 98-166, *Second Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-116*, 66 Fed. Reg. 59761 (2001)(*MAG Order*) at ¶ 56.

(LEC) provides the business customer with the equivalent of up to 24 voice-grade channels or subscriber lines over a single transmission medium, much like ISDN.

When the Commission initially adopted section 69.104, it did not specifically address the application of SLCs to technologies that permit the provision of multiple voice grade channels over a single facility.[8] However, relying on the Part 36 definition of "subscriber line" as "a communication channel between a telephone station, PBX or TWX station and the central office which it serves"[9] and the Part 36 definition of "channel" as "an electrical path suitable for the transmission of communications between two or more points,"[10] the Commission has found that its rules require the assessment of one SLC for each T-1-derived channel provided by a LEC for local exchange service.[11]

In making this determination, however, the Commission recognized that requiring carriers to assess 24 SLCs on a single line used to provide channelized T-1 services might

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[8] *See* NYNEX Telephone Companies, Transmittal No. 116, Revisions to Tariff F.C.C. No. 1, *Order on Reconsideration*, 10 FCC Rcd 2247 (1995) (*1995 Order on Reconsideration*) at ¶ 24. *See also* End User Common Line Charges, *Notice of Proposed Rulemaking*, CC Docket No. 95-72, 10 FCC Rcd 8565 (1995) (*1995 EUCL Notice*) at ¶ 10.

[9] *See* 47 C.F.R. Part 36, Appendix-Glossary.

[10] *Id.*

[11] *See* NYNEX Telephone Companies, Revisions to Tariff F.C.C. No. 1, Transmittal No. 116, *Memorandum Opinion and Order*, 7 FCC Rcd 7938 (1992) (*NYNEX 1992 Rejection Order*) at ¶ 5, rejecting NYNEX's tariff revision proposing to assess only one multi-line business SLC per T-1 facility, so long as all the channels derived from the facility were used to provide one switched local exchange service to one customer. *See also 1995 Order on Reconsideration* at ¶ 18, reaffirming the Commission's decision in the *NYNEX 1992 Rejection Order*, including its reliance on the Part 36 definition of "subscriber line" as essentially equating "line" with "channel."

not reflect the actual common line costs associated with such services and that such cost considerations "might be reason to consider changing Section 69.104(a)."[12]

In 1995 the Commission initiated a rulemaking proceeding to consider the proper application of SLCs to local loops used with ISDN and other services that permit the provision of multiple voice-grade equivalent channels to a customer over a single facility.[13] In this proceeding, the Commission concluded that it should modify its rules to establish separate methods for assessing NTS costs for ISDN services, in order to "realign cost recovery in a manner that more closely reflects the manner in which those costs are incurred."[14]

Based on a comparison of the NTS loop costs of ISDN, excluding switching costs, and the NTS costs of single channel analog service, the Commission amended its

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[12] *Id.* Both T-1 and basic voice grade local exchange service can be provisioned over copper loop facilities between the telephone company central office and the customer's premises. In addition, the provisioning of T-1 service requires additional loop electronics, as well as associated equipment such as a different line card at the central office and customer-provided multiplexing equipment at the customer's premises. While the non-traffic sensitive (NTS) T-1 loop costs are greater than an ordinary voice grade subscriber line, they are not 24 times greater as would be implied by the imposition of 24 SLC charges.

[13] *See 1995 EUCL Notice* at ¶ 1.

[14] *See* Access Charge Reform, CC Docket No. 96-262, Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Transport Rate Structure and Pricing, CC Docket No. 91-213, End User Common Line Charges, CC Docket No. 95-72, First Report and Order, 12 FCC Rcd 15982 (1997) (*First Report and Order*) at ¶ 115. The Commission determined that assessment of one SLC per derived channel for ISDN service would exceed the NTS cost of ISDN service and also acknowledged that "the current SLC-per-derived channel rule requires LECs to assess charges that are not related to the NTS costs of the service provided."

Part 69 rules to provide that ILECs assess no more than 5 SLCs for PRI ISDN service.[15] The Commission also established a separate port charge to be assessed directly on ISDN users to recover the difference between the cost of an ISDN line card and the cost of a line card used for basic, analog service.[16]

Noting that it did not see a reason to deviate from its general rule of one SLC per channel "unless the customer orders ISDN or another service that requires derived channel technology,"[17] the Commission limited its decision in the *First Report and Order* to ISDN service. The Commission explained that the record did not contain sufficient information to allow it to determine the relative NTS costs of derived channel services other than ISDN.[18]

II. DISCUSSION

NECA requests that the Commission amend section 69.104 to permit the application of no more than five SLC charges to customer-ordered T-1 exchange access service for which the customer supplies the terminating channelization equipment. Without equivalent treatment, similar derived channel services (and the purchasing customers) are saddled with a SLC burden that far exceeds the NTS loop costs of the service provided. Unequal SLC treatment creates an artificial price incentive for

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[15] *Id.* This rule change applied initially only to price cap carriers. The Commission also concurrently changed its rules for BRI ISDN to provide that ILECs assess no more than 1 SLC for BRI ISDN service. *See* 47 C.F.R. §§ 69.152(l)(1) and (2). The *MAG Order* modified section 69.104 (47.C.F.R. §69.104) to extend comparable methods for calculating BRI and PRI ISDN SLCs to non-price cap carriers. *See MAG Order* at ¶ 56.

[16] *See First Report and Order* at ¶ 117.

[17] *Id.* at ¶ 120.

[18] *Id.*

subscribers to choose ISDN over similar services that may be a more efficient or effective choice from a technology deployment perspective.

Digital Transport Service (DTS) is one example of a customer-ordered T-1 exchange access service that gives the customer the functional equivalent of 24 business lines when fully activated over one digitally formatted T-1 access line.[19] Similar to PRI ISDN, the customer supplies the customer premises equipment (CPE) necessary to derive the individual business lines from the T-1 facility. The loop provisioning of DTS is identical to PRI ISDN. Unlike ISDN, however, the LEC currently must charge DTS customers one multi-line business SLC for each activated channel. As is demonstrated by the following comparison, customers who purchase DTS pay roughly three times as much in end user charges as compared with PRI ISDN, although both services are functionally similar and provisioned in virtually the same manner:

Monthly End User Charge Comparison	
PRI ISDN	**Digital Transport Service**
Capacity typically 23 or 24 individual lines	Capacity of 24 individual lines
SLC Charges = 5 X $9.20[20] = $46.00	SLC Charges = 24 X $9.20 = $220.80
Port Charge = 1 X $ 23.51[21] = $23.51	Port Charge = $0.00 $ 0.00
Total Monthly Charge = $69.51	Total Monthly Charge = $220.80

NECA has collected data on the provisioning of channelized T-1 service and PRI ISDN service. These data show that, for purposes of SLC charge application, customer-ordered T-1 circuits for which the customer supplies the terminating channelization

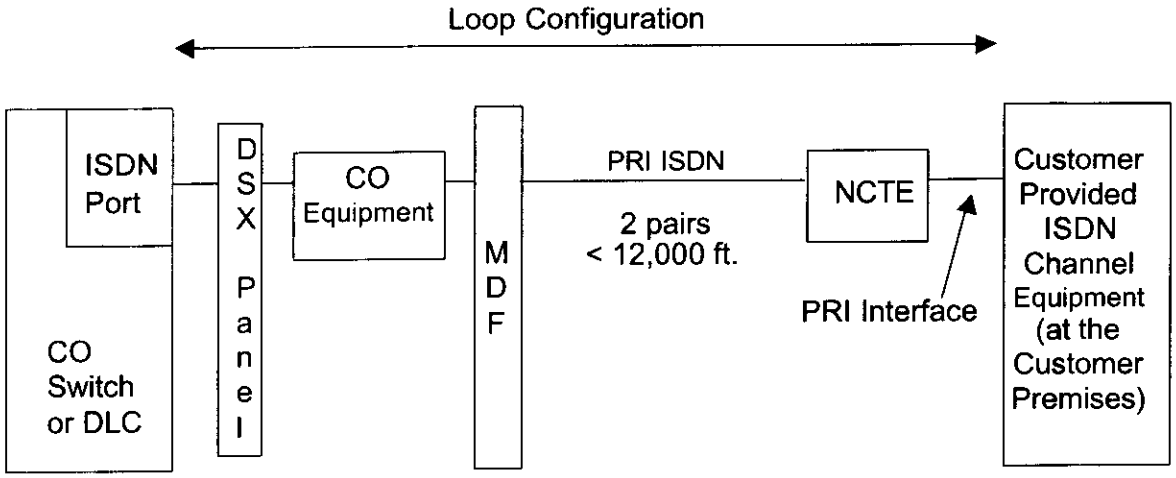
[19] *See, e.g.*, Tipton Telephone Company, Inc. d/b/a TDS Telecom Tariff I.U.R.C. No. 26475, Section 3, Digital Transport Service.

[20] For illustrative purposes, the maximum Multiline Business SLC of $9.20 is used in this example. *See* NECA FCC Tariff No. 5, Section 17.1.2.

[21] *Id.* at Section 17.1.4 (ISDN Line Ports).

equipment impose the same outside plant costs as PRI ISDN and should be accorded the same treatment as PRI ISDN circuits.

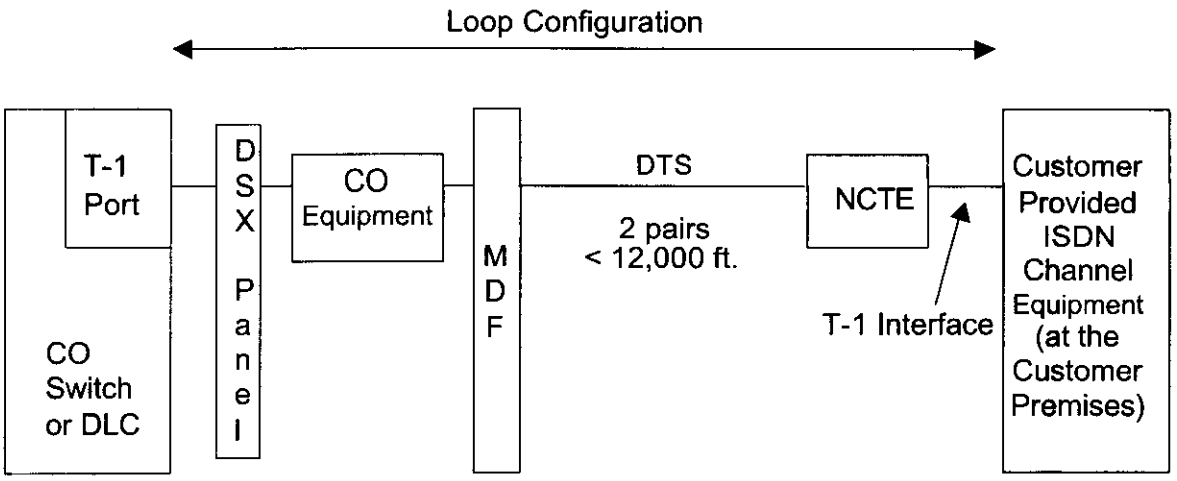
NECA issued a data request to the Rate Development Task Force (RDTF),[22] asking the group to identify the type of loop transmission facilities used to provision both PRI ISDN and DTS (or an equivalent service). The RDTF provided circuit diagrams of the most significant arrangements, depicting the facilities between the customer premises and central office (CO) for both PRI ISDN and DTS service.



Transport of PRI ISDN

CO	Central Office	HDSL	High bit-rate Digital Subscriber Line
DLC	Digital Loop Carrier	ISDN	Integrated Services Digital Network
DSX	Digital Cross-Connect	MDF	Main Distributing Frame
DTS	Digital Transport Service	NCTE	Network Channel Terminating Equipment

[22] The Rate Development Task Force is a group of selected participants in the NECA Traffic Sensitive (TS) Pool. These companies represent approximately 37 percent of the cost company revenue in the TS Pool and approximately 37 percent of the total TS Pool revenue. NECA uses the Rate Development Task force to develop cost characteristics representative of the TS Pool and to facilitate the TS rate development process.



Transport of DTS
(Illustrative Configuration for a T-1 Interface

The examples provided depict the typical provisioning configuration for PRI ISDN and DTS service on copper loops less than 12,000 ft. in length. Mid-span repeaters may be added to either service to extend the range for longer loops.[23] As these circuit diagrams demonstrate, PRI ISDN and DTS services are provisioned in an identical manner. Both services use identical loop configurations. [24]

Since the underlying loop configurations are identical for both services, it follows that the NTS loop costs of DTS, excluding switching costs, are the same as PRI ISDN. Therefore, the ratio of NTS loop costs compared to the NTS loop costs of single channel analog service are also the same for both DTS and PRI ISDN, thus warranting the same

[23] Both services can also be provisioned over fiber.

[24] In addition to the loop, both services require a service-specific line port at the central office (CO) switch and customer-provided channelization equipment at the customer premises. Since the customer premises equipment (CPE) is provided by the customer, the cost of this channelization equipment is not included in the regulated LEC's cost for either service.

SLC treatment for DTS service as the Commission's rules prescribe for PRI ISDN. To be consistent with the treatment of ISDN, NECA anticipates that a separate DTS port charge would need to be developed to recover any excess line port costs above those of basic analog service.[25]

IV. CONLCUSION

Based on this information, NECA requests that the Commission amend Part 69.104 of its rules so as to permit the application of no more than five SLCs to customer-ordered exchange access services that are provisioned using T-1 interfaces for which the customer supplies the terminating channelization equipment. Exchange access service that is provisioned over a T-1 facility where the local exchange carrier (LEC), and not the customer, provides the terminating channelization equipment would continue to be assessed one SLC per derived channel activated in accordance with current rules.

Respectfully submitted,

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[25] *See* 47 C.F.R. § 69.130.

Appendix A

Modify section 69.104 (End user common line for non-price cap incumbent local exchange carriers) to read as follows:

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(p) ~~Beginning January 1, 2002, n~~Non-price cap local exchange carriers shall assess:

(1) No more than one End User Common Line charge as calculated under the applicable method under paragraph (n) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) No more than five End User Common Line charges as calculated under paragraph (o) of this section for Primary Rate Interface ISDN service.

(3) No more than five End User Common Line charges as calculated under paragraph (o) of this section for customer-ordered exchange access service that is provisioned using T-1 interfaces for which the customer supplies the terminating channelization equipment.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Petition for Rulemaking was served this 26th day of September 2002, by hand delivery to the persons listed below.

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